



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

HD:hd
Docket No: 04802-97
17 December 1999

LCDR [REDACTED] USN RET
[REDACTED]

Dear Commander [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 16 December 1999. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the advisory opinions furnished by the Bureau of Naval Personnel dated 10 September 1997, 21 October 1997 and undated, copies of which are attached.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the advisory opinion dated 10 September 1997 in finding that the contested fitness report should stand. While late submission of the report is not condoned, the Board found that this did not invalidate it. They were unable to find that the contested report did not take due account of your temporary additional duty at the National Naval Medical Center, noting it was specifically mentioned in block 41. The Board found that the adverse marks were adequately explained, and that the comments were sufficiently specific and concise. While your counseling sheet should not have reflected a promotion recommendation, the Board found that this error did not invalidate the report at issue.

The August 1997 filing date on the contested fitness report indicates it was not considered by the Fiscal Year 98 Line Commander Selection Board, which convened on 11 March 1997. Further, the Board found that this report is properly in your record. Accordingly, they had no basis to remove your failure by the FY 98 promotion board or grant you a special selection board.

Since the Board found the fitness report as issue should not be removed, they had no basis to reinstate your executive officer screening status.

In view of the above, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director

Enclosures



DEPARTMENT OF THE NAVY
BUREAU OF NAVAL PERSONNEL
WASHINGTON, D.C. 20370-5000

IN REPLY REFER TO

1610
Pers-313/32
SEP 10 1997

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Via: BUPERS/BCNR Coordinator (Pers-00XCB)

Subj: LCDR [REDACTED], USN [REDACTED] 0

Ref: (a) BUPERSINST 1610.10, EVAL Manual

Encl: (1) BCNR File

1. Enclosure (1) is returned. The member requests removal of her performance report for the period 1 November 1995 to 31 October 1996, dated 21 February 1997.

2. Our comments:

a. A review of the member's headquarters record revealed two periodic reports for the period ending 31 October 1996. The first report is a concurrent prepared by the National Naval Medical Center, Bethesda, MD, covering the period 20 August to 31 October 1996. The report is not observed, contains no performance comments, and states in block 41 that it is being submitted for continuity purposes. LCDR [REDACTED]'s regular reporting senior signed the report in block 47, acknowledging the contents, but did not adopt the report by placing an "X" in the regular block.

b. The second report on file is the report in question. This report is a fully graded report prepared by the member's regular reporting senior. This report is required in accordance with reference (a), Annex D, paragraph D-3, and comments on the member's status, gives specific comments on performance and justification for adverse marks.

c. Counseling on performance is mandatory in accordance with reference (a), Annex C; however, written documentation of counseling does not become a part of the member's permanent record and is intended to be a tool to assist the member and the reporting senior in the appraisal and reporting process. Blocks 30 and 31 of the report indicate the member was counseled [REDACTED] 7 March 1996. The member's signature in block 32 acknowledge the accuracy of the counseling date and the counselor.

d. A reporting senior is encouraged to obtain input from the individual being evaluated; however, use of input from immediate supervisors and the member is at the discretion of the reporting senior. Omission of some duties and responsibilities or accomplishments does not invalidate the report.

Subj: LCD [REDACTED] USN, [REDACTED]

The report in question is a valid report and represents the appraisal responsibility of the reporting senior for a specific period of time. It is not routinely open to challenge and is not required to be consistent with previous or subsequent reports. The report is valid even though it may have not been referred to the member for signature and comment in a timely manner.

f. The member submitted a statement to her report. The statement and reporting senior's endorsement are on file in the member's headquarters record.

g. The member does not prove the report in question to be an injustice or in error.

3. We do not recommend relief by removal of the member's fitness report.

[REDACTED]
Head, Selection Board
Support Branch



DEPARTMENT OF THE NAVY
BUREAU OF NAVAL PERSONNEL
WASHINGTON, D.C. 20370-5000

4802-97

IN REPLY REFER TO
5420
Ser 26/248
OCT 21 1997

MEMORANDUM FOR BCNR

Via: BUPERS/BCNR Coordinator

Subj: LCDR [REDACTED] US [REDACTED]

Ref: (a) [REDACTED] mo of 30 September 1997

Encl: (1) BCNR File

1. Enclosure (1) is returned, recommending disapproval of [REDACTED] request to remove her failure of selection before the FY98 Commander Line Promotion Selection Board, to be promoted to Commander, or to be approved for a special promotion selection board.
2. Modification of the subject fitness reports has been addressed by reference (a).
3. [REDACTED] request for removal of her failure of selection and promotion to Commander can not be supported. Her record at the time of the board was an accurate portrayal of her career. The board considered this information and determined her not best qualified for promotion. The exact reason an officer fails to select for promotion is not known. Because [REDACTED] is not selected by a statutory promotion board no promotion authority exists and no promotion may be lawfully effected.
4. If BCNR grants her request and removes the documents in question, this office will support neither the removal of her failure of selection nor her request for a special promotion selection board.
5. Recommend disapproval of [REDACTED] request.

[REDACTED]
[REDACTED]
[REDACTED]
BCNR Liaison, Officer Promotions
and Enlisted Advancements Division



DEPARTMENT OF THE NAVY
BUREAU OF NAVAL PERSONNEL
WASHINGTON, D.C. 20370-5000

4802-97

IN REPLY REFER TO

MEMORANDUM FOR BCNR

Via: BUPERS/BCNR Coordinator

Subj: [REDACTED], USN [REDACTED]

Ref: (a) PERS-32C memo of 23 OCT 97

Encl: (1) BCNR File

1. Enclosure (1) is returned, recommending disapproval of [REDACTED] request.
2. [REDACTED] justification does not support her request for removal of the fitness report or re-instatement of her Executive Officer screening status. She was evaluated fairly in accordance with pertinent instructions by [REDACTED]

[REDACTED]
Head, Surface Lieutenant
Commander Assignment Branch